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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/656,996	09/05/2003	Goran Palmers	Strom.7289	1744

7590 09/17/2004

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EXAMINER

BOEHLER, ANNE MARIE M

ART UNIT PAPER NUMBER

3611

DATE MAILED: 09/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/656,996

Applicant(s)

PALMERS ET AL.

Examiner

Anne Marie M. Boehler

Art Unit

3611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 16 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,3,13,14 and 18 is/are pending in the application.
- 4a) Of the above claim(s) 2,4-12 and 15-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,13,14 and 18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. Claims 2, 4-12, and 15-17 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on August 16, 2004.

Applicant argues that the restriction is improper because the groupings are different pieces of the movable wheel recited in claim 1. The examiner maintains that the different embodiments that correspond to the groupings have mutually exclusive structure that make them distinct embodiments. Applicant is only entitled to claim one invention or embodiment unless a generic claim is found to be allowable. In the present case, no allowable generic claim has been identified so the election of species requirement is being maintained.

Applicant indicated that claims 2, 15, and 16 read on the elected embodiment. The examiner disagrees. Claim 2 recites a "weight means" that is not clearly defined in applicant's specification and that is not described in conjunction with the elected embodiment of Figures 7-9. Claims 15 and 16 recite an "adjustable level arm" and "yoke" that are not part of the embodiment of Figures 7-9. Therefore, claims 2, 15, and 16 are being withdrawn as not being drawn to the elected embodiment.

2. Applicant's preliminary amendment, filed September 5, 2003, has been entered and is the basis for the present Office Action.

3. Claims 1, 3, 13, 14, and 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 1, "of the type" is indefinite. In lines 4-5, "its forward casters" are claimed, but only "one front wheel" is recited earlier in the claim. It is not clear if the "casters" correspond to the "front wheel". In line 6, it is not clear to what "it/they" refers.

In claim 14, line 2, "the ordinary front castor" lacks clear antecedent basis in the claim.

In claim 18, line 1, "of the type" is indefinite. Also, the "front wheel", "rear wheels" and "movable support" and "means adapted to move said movable support" (spring-loaded means) have been recited earlier in the claim so these recitations should refer back to the earlier references.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 3, and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Chant (USPN 4,132,423).

Chant shows a wheelchair with front caster wheels 20 and a movable support 2 pivotably mounted to the chair forward of the caster wheels. A spring-loaded means 14 moves the movable support to its rest position in front of the casters and allows the support to be pivoted back by contact with an obstacle, such as a step, and lift the front

wheels up as the chair is pivoted about the rear pair of wheels. Regarding claim 18, the Chant wheelchair includes a chassis, front castor wheels, and rear wheels, and can be used as a walker (by a user holding onto rearwardly projecting handles).

6. Claims 1, 3, and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Kitrell.

Kitrell shows a movable support for a wheelchair having a chassis 24, front caster wheels 26, and rear wheels (not shown). The movable support 32, 34, projects in front of a caster until it engages an obstacle 3 that pushes the support backward and lifts the wheelchair over the obstacle.

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chant in view of Vincent et al. (GB 2,258,196).

Chant lacks wheels on the track. Vincent shows a wheelchair with a support for lifting the chair over obstacles, such as a curb. It includes a curved track 1 that supports wheels 2.

It would have been obvious to one of ordinary skill in the art to provide the Chant support with wheels on the curved track surface, as taught by Vincent, in order to facilitate negotiation of a curb.

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Asensi, Weissman, Baker, Wu, Tokita, and Kurth each show wheel supports to help in lifting wheeled vehicles over a curb or step.

Hanson shows a support with rows of wheels to assist in lifting a hand truck over steps.

Fattahi, Heien, Lorman, and Knochel show walkers with stair climbing assist structures.


Renteria and Hara show walkers with four wheels and brakes for the rear wheels.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anne Marie M Boehler whose telephone number is 703-308-0422. The examiner can normally be reached on 7:30-5:00, Monday-Thursday, and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on 703-308-0629. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 9/14/07  
Anne Marie M. Boehler  
Primary Examiner  
Art Unit 3611

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